

Remarks

The Applicants previously filed a declaration under 37 CFR 1.131, relying on conception prior to the effective date of the Bolosky reference, followed by diligence until the US filing date. The Examiner stated that the declaration as filed on 06-07-05 was ineffective to overcome the Bolosky reference. Particularly, the Examiner states that:

1. there is insufficient evidence of conception before the reference date; and
2. there is insufficient evidence of Diligence before the reference date.

In response, the Applicants have submitted a new declaration addressing the deficiencies of the prior declaration.

Regarding item (1) above, the Examiner states that each exhibit relied upon should be specifically referred to in the affidavit or declaration. In response, the Applicants have specifically referenced their Motorola Patent Disclosure Form, showing the paragraphs relevant to prove conception.

Regarding item (2) above, the Examiner stated that the Applicants merely stated that they have been diligent without providing supporting evidence indicating activities between March 21, 2001 and October 25, 2001. In response, supporting materials have been identified and submitted with the declaration.

The Applicants believe that all deficiencies with the prior 1.131 declaration have been addressed with this response.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references. As the Applicant has overcome all substantive rejections given by the Examiner the Applicant contends that this Amendment, with the above discussion, overcomes the Examiner's rejections to the pending claims. Therefore, the Applicant respectfully requests allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter.

Finally, please charge any fees (including extension of time fees) or credit overpayment to Deposit Account No. 502117.

Respectfully Submitted,
Messerges, ET AL.

by: 

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